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**REGISTERED POST WITH A/D.
HAND DELIVERY
AFFIXATION ON PROPERTY**

**ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT, KOLKATA
(erstwhile KOLKATA PORT TRUST)**

(Appointed by the Central Govt. Under Section 3 of Act 40 of 1971-Central Act)
Public Premises (Eviction of Unauthorized Occupant) Act 1971

OFFICE OF THE ESTATE OFFICER

6, Fairley Place (1st Floor)

KOLKATA - 700 001

Court Room At the 1st Floor
of Kolkata Port Trust's
Fairlie Warehouse
6, Fairley Place, Kolkata- 700 001.

REASONED ORDER NO. 28 DT 09.07.2024
PROCEEDINGS NO. 1666 OF 2018

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

-Vs-

M/S Soorajmull Baijnath (O.P.)

F O R M - "B"

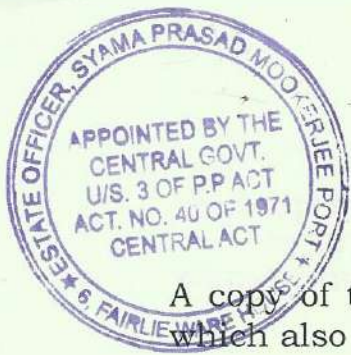
**ORDER UNDER SUB-SECTION (1) OF SECTION 5 OF THE PUBLIC
PREMISES (EVICTION OF UNAUTHORISED OCCUPANTS) ACT, 1971**

WHEREAS I, the undersigned, am satisfied, for the reasons recorded below that **M/S Soorajmull Baijnath of 138, Biplabi Rash Bihari Basu Road, Kolkata-700001 AND ALSO AT 304 Jasmine Tower, 31 Shakespeare Sarani, Kolkata-700017** is in unauthorized occupation of the Public Premises specified in the Schedule below :

R E A S O N S

1. That this Forum of Law is well within its jurisdiction to adjudicate upon the matters relating to eviction and recovery of arrear dues/damages etc. as prayed for on behalf of KoPT.
2. That the plea taken by O.P. regarding "non-service of ejection notice" for determination of lease has no merit.
3. That O.P. has violated the condition of long term lease as granted by the Port Authority by way of not making payment of rental dues and taxes to KoPT, for a prolonged period of time.
4. That O.P. has parted with possession of the public premises without any authority of law, in facts and circumstances of the case.
5. The O.P. or any other person/occupant has failed to bear any witness or adduce any evidence in support of its occupation as "authorised occupation".
6. That the notice to quit dated 08.12.1980 as served upon O.P. by the Port Authority is valid, lawful and binding upon the parties and O.P.'s occupation and that of any other occupant of the premises has become unauthorised in view of Sec.2 (g) of the P.P. Act.
7. That O.P. is liable to pay damages for wrongful use and occupation of the public premises up to the date of handing over the clear, vacant and unencumbered possession to the port authority.

PLEASE SEE ON REVERSE



(2)

A copy of the reasoned order No. 28 dated 09.07.2021 attached hereto which also forms a part of the reasons.

NOW, THEREFORE, in exercise of the powers conferred on me under Sub-Section (1) of Section 5 of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971, I hereby order the said **M/S Soorajmull Baijnath of 138, Biplabi Rash Bihari Basu Road, Kolkata-700001 AND ALSO AT 304 Jasmine Tower, 31 Shakespeare Sarani, Kolkata-700017** and all persons who may be in occupation of the said premises or any part thereof to vacate the said premises within 15 days of the date of publication of this order. In the event of refusal or failure to comply with this order within the period specified above the said **M/S Soorajmull Baijnath of 138, Biplabi Rash Bihari Basu Road, Kolkata-700001 AND ALSO AT 304 Jasmine Tower, 31 Shakespeare Sarani, Kolkata-700017** and all other persons concerned are liable to be evicted from the said premises, if need be, by the use of such force as may be necessary.

SCHEDULE

Plate No. HB-40

The said piece and parcel of Trustees' godown measuring about 3567.10 Sq.mts or thereabouts situated at Ramkristopur, Howrah, P.S: Shibpur, District and Registration District Howrah. It is bounded by on the North partly by the Trustees' road partly by the Trustees' strip of open land alongside Port Trust Railway Siding land and partly by the Trustees' shed occupied by you, on the east partly by the Trustees' Grand Foreshore road and part by the Trustees' shed occupied by you, on the south partly by the Trustees' shed occupied by you and partly by the Trustees' strip of open land alongside northern spur and on the west by the Trustees' strip of open land alongside Port Trust Railway Siding.

Trustees' means the Syama Prasad Mookerjee Port, Kolkata (erstwhile the Board of Trustees for the Port of Kolkata.)

Date- 09.07.2021


Signature & Seal of the
Estate Officer.



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**ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT, KOLKATA
(erstwhile KOLKATA PORT TRUST)**

(Appointed by the Central Govt. Under Section 3 of Act 40 of 1971-Central Act)
Public Premises (Eviction of Unauthorized Occupant) Act 1971

OFFICE OF THE ESTATE OFFICER

6, Fairley Place (1st Floor)

KOLKATA - 700 001

Court Room At the 1st Floor
6, Fairlie Place Warehouse

Form "E"

PROCEEDINGS NO.1666/R OF 2018

ORDER NO. 28 DATED: 09.07.2021

Form of order under Sub-section (1) and (2A) of Section 7 of the Public
Premises (Eviction of Unauthorised Occupants) Act, 1971.

To

M/S Soorajmull Baijnath.

138, Biplabi Rash Bihari Basu Road,

Kolkata-700001.

AND ALSO AT

304 Jasmine Tower, 31 Shakespeare Sarani,

Kolkata-700017.

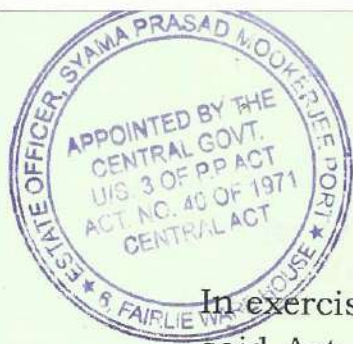
WHEREAS you are in occupation of the public premises described in
the Schedule below.

AND WHEREAS, by written notice dated 25.03.2019 you are called
upon to show cause on/or before 04.04.2019 why an order requiring you
to pay a sum of Rs 2,23,826.40 (Rupees Two Lakhs Twenty Three
Thousand Eight hundred Twenty Six and paise Forty only) being the
rents payable together with compound interest in respect of the said
premises should not be made;

AND WHEREAS I have considered your objections and/or the evidence
produced by you;

NOW, THEREFORE, in exercise of the powers conferred by sub-section
(1) of Section 7 of the Public Premises (Eviction of Unauthorised
Occupants) Act 1971, I hereby require you to pay the sum of Rs
2,23,826.40 (Rupees Two Lakhs Twenty Three Thousand Eight hundred
Twenty Six and paise Forty only) for the period 01.02.1978 to 31.01.1981
(both days inclusive) to SMP, Kolkata by 26.07.2021

PLEASE SEE ON REVERSE



: 2 :

In exercise of the powers conferred by Sub-section (2A) of Section 7 of the said Act, I also hereby require you to pay compound interest @ 6.20 % per annum on the above sum till its final payment being the current rate of interest as per the Interest Act, 1978.

In case the said sum is not paid within the said period or in the said manner, it will be recovered as arrears of land revenue through the Collector.


SCHEDULE

Plate No. HB-40

The said piece and parcel of Trustees' godown measuring about 3567.10 Sq.mts or thereabouts situated at Ramkristopur, Howrah, P.S: Shibpur, District and Registration District Howrah. It is bounded by on the North partly by the Trustees' road partly by the Trustees' strip of open land alongside Port Trust Railway Siding land and partly by the Trustees' shed occupied by you, on the east partly by the Trustees' Grand Foreshore road and part by the Trustees' shed occupied by you, on the south partly by the Trustees' shed occupied by you and partly by the Trustees' strip of open land alongside northern spur and on the west by the Trustees' strip of open land alongside Port Trust Railway Siding.

Trustees' means the Syama Prasad Mookerjee Port, Kolkata (erstwhile the Board of Trustees for the Port of Kolkata).

Dated: 09-07-2024


Signature and seal of the
Estate Officer



**REGISTERED POST WITH A/D.
HAND DELIVERY
AFFIXATION ON PROPERTY**

**ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT, KOLKATA
(erstwhile KOLKATA PORT TRUST)**

(Appointed by the Central Govt. Under Section 3 of Act 40 of 1971-Central Act)
Public Premises (Eviction of Unauthorised Occupants) Act 1971
OFFICE OF THE ESTATE OFFICER
6, Fairlie Place (1st FLOOR) KOLKATA-700001

Court Room At the 1st Floor
of Kolkata Port Trust's
Fairlie Warehouse
6, Fairlie Place, Kolkata- 700 001.

PROCEEDINGS NO. 1666/D OF 2018
ORDER NO. 28 DATED: 09.07.2021

Form- G

Form of order under Sub-section (2) and (2A) of Section 7 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971

To
M/S Soorajmull Baijnath.
138, Biplabi Rash Bihari Basu Road,
Kolkata-700001.
AND ALSO AT
304 Jasmine Tower, 31 Shakespeare Sarani,
Kolkata-700017.

WHEREAS, I, the undersigned, am satisfied that you are in unauthorised occupation of the public premises mentioned in the Schedule below:

AND WHEREAS, by written notice dated 25.03.2019 you are called upon to show cause on/or before 04.04.2019 why an order requiring you to pay damages of Rs. 4,10,04,845.10 (Rupees Four Crore Ten Lakhs Four Thousand Eight hundred Forty Five and paise Ten only) together with [compound interest] for unauthorised use and occupation of the said premises, should not be made;

AND WHEREAS I have considered your objections and/or the evidence produced by you;

NOW, THEREFORE, in exercise of the powers conferred on me by Sub-section (2) of Section 7 of the Public Premises (Eviction of Unauthorised Occupants) Act 1971, I hereby order you to pay the sum of Rs. 4,10,04,845.10 (Rupees Four Crore Ten Lakhs Four Thousand Eight hundred Forty Five and paise Ten only) assessed by me as damages on account of your unauthorised occupation of the premises for the period from 01.02.1981 to 18.03.2019 (both days inclusive) to SMP, Kolkata by 26.07-2021.

PLEASE SEE ON REVERS



: 2 :

In exercise of the powers conferred by Sub-section (2A) of Section 7 of the said Act, I also hereby require you to pay compound interest @ 6.20 % per annum on the above sum till its final payment being the current rate of interest as per the Interest Act, 1978.

In the event of your refusal or failure to pay the damages within the said period or in the manner aforesaid, the amount will be recovered as an arrear of land revenue through the Collector.

SCHEDULE

Plate No. HB-40

The said piece and parcel of Trustees' godown measuring about 3567.10 Sq.mts or thereabouts situated at Ramkristopur, Howrah, P.S: Shibpur, District and Registration District Howrah. It is bounded by on the North partly by the Trustees' road partly by the Trustees' strip of open land alongside Port Trust Railway Siding land and partly by the Trustees' shed occupied by you, on the east partly by the Trustees' Grand Foreshore road and part by the Trustees' shed occupied by you, on the south partly by the Trustees' shed occupied by you and partly by the Trustees' strip of open land alongside northern spur and on the west by the Trustees' strip of open land alongside Port Trust Railway Siding.

Trustees' means the Syama Prasad Mookerjee Port, Kolkata (erstwhile the Board of Trustees for the Port of Kolkata).

Date 09-07-2021


Signature & Seal of the
Estate Officer.

COPY FORWARDED TO THE ESTATE MANAGER, SMP, KOLKATA FOR INFORMATION.



Estate Officer, Kolkata Port Trust

Appointed by the Central Govt. Under Section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act 1971

Proceedings No. 1666/1666/R, 1666/D of 2018 Order Sheet No. 22

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

M/s Soorajmull Baijnath ^{VS}

FINAL ORDER

28
09.07.2021

The matter is taken up today for final disposal. The factual aspect involved in this matter is required to be put forward in a nutshell in order to link up the chain of events leading to this proceedings. It is the case of Syama Prasad Mookerjee Port, Kolkata [erstwhile Kolkata Port Trust], hereinafter referred to as KoPT, Applicant herein, that godown space msg. 3567.10 Sq.m or thereabouts situated at Ramkristopur, Howrah, P.S- Shibpur, District & Registration District-Howrah, comprised under occupation Plate No. HB-40 was allotted to M/S Soorajmull Baijnath, O.P. herein, on long term Lease for 30 years with effect from 01.02.1978 without any option of renewal for the purpose of storage of iron and steel materials, pipes etc. It is argued on behalf of KoPT that after expiry of such lease by efflux of time, said O.P. remained on the premises unauthorisedly and neglected to pay monthly rent, taxes and also accrued interest thereon, erected unauthorized constructions and also parted with possession of the subject premises to rank outsider, in violation of the terms of such tenancy.

In view of the aforesaid breaches committed by the O.P., KoPT had issued notice to quit dated 08.12.1980 asking the O.P. to hand over clear, vacant, peaceful and unencumbered possession of the property to KoPT on 31.01.1981. But O.P has failed and neglected to vacate/ hand over the possession of such premises to KoPT after service of the said Notice to Quit. It is pertinent to mentioned that the subject godown premises was gutted by devastating fire on 13.07.2012.

This Forum of Law formed its opinion to proceed against O.P. and issued Show Cause Notice u/s 4 of the Act (for adjudication of the prayer for order of eviction etc.) and Show Notice/s u/s 7 of the Act (for adjudication of the

By S.D.L.
12-07-2021
OFFICE OF THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
KOLKATA

Handwritten mark



Estate Officer, Kolkata Port Trust

Appointed by the Central Govt. Under Section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act 1971

Proceedings No. 1666/1666/R/1666/D of 2018 Order Sheet No. 23

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

M/s Soorajmull Baijnath VS

28
09.07.2021

prayer for recovery of rental dues and compensation etc.) all dated 25.03.2019 (vide Order No.02 dated 25.03.2019).

The said notice/s were sent through Speed Post/hand delivery to the recorded address of O.P. at 138, Biplabi Rash Bihari Basu Road, Kolkata-700001. Notice sent through speed post was returned back to the Forum with an endorsement "Moved". However, the report of the Process Server dated 28.03.2019 depicts that said notice/s were served upon O.P's address personally and due affixation was also made over the subject premises in question as per the mandate of the P.P Act.

O.P entered appearance through its advocate by filing vokalatnama and prayed for adjournment to file his reply to the Show Cause on behalf of O.P. Considering his submission, Forum allowed him opportunity to file such reply. Thereafter, on 25.04.2019, Advocate of O.P filed his reply to the Show Cause duly signed by Anand Gupta, Partner on behalf of O.P., followed by a self declaration dated 02.05.2019. KoPT also filed their comments on the said reply/written objection on the same day i.e on 02.05.2019. I have duly considered the applications of O.P as filed on 04.04.2019, 11.04.2019, 25.04.2019, 30.04.2019, 14.05.2019, 18.06.2019 and 10.07.2019. After due consideration of the submissions/arguments made on behalf of the parties, I find that following issues have come up for my adjudication/decision:

- I) Whether the petition of KoPT is maintainable or not;
- II) Whether the plea taken by O.P. regarding "non-service of ejectment notice" for determination of lease

Sw

By Order of:
THE ESTATE OFFICER
MAMA PRAGAD MOCKENJEE PORT
CERTIFIED COPY OF
FILED BY: S.De
DATE: 12.07.2021
ESTATE OFFICER
MAMA PRAGAD MOCKENJEE PORT



Estate Officer, Kolkata Port Trust

Appointed by the Central Govt. Under Section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act 1971

Proceedings No. 666, 1666/R, 1666/D Of 2018 Order Sheet No. 24

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

M/s Soorajmull ^{VS} Bajjnath

28
09.07-2021

or demand for possession from O.P. dated 08.12.1980 has got any merit for determination of the points at issue or not.

III) Whether O.P. has defaulted in making payment of rental dues to KoPT, or not;

IV) Whether O.P has erected any unauthorized construction or not;

V) Whether O.P has parted with possession unauthorisedly, or not;

VI) Whether the O.P can claim reconciliation of Interest amount or not;

VII) Whether the schedule of property is wrong or not or O.P can claim amendment of the Schedule of property or not;

VIII) Whether the reference of O.P as to the Title Appeal No. 243 of 1992 as passed by Ld' 2nd ADJ, Howrah has any nexus with present proceeding or not;

IX) Whether after alleged expiry of such long term lease O.P.'s occupation could be termed as "unauthorised occupation" in view of Sec.2 (g) of the P.P. Act and whether O.P. is liable to pay damages to KoPT during the period of its unauthorised occupation or not;

As regards the issue No. I, I must say that the properties owned and controlled by the Port Authority has been declared as "public premises" by the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 and Section-15 of the Act puts a complete bar on Court's jurisdiction to entertain any matter relating to eviction of

By Order of:
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
CERTIFIED COPY OF THE ORDER
PASSED BY THE BOARD OF TRUSTEES
OF THE PORT OF KOLKATA
12-07-2021
ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT



Estate Officer, Kolkata Port Trust

Appointed by the Central Govt. Under Section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act 1971

Proceedings No. 1666, 1666/R, 1666/D Of 2018 Order Sheet No. 25

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

M/S Soorajmull Baijnath ^{VS}

28
09.07.2021

unauthorized occupants from the public premises and recovery of rental dues and/or damages, etc. KoPT has come up with an application for declaration of representatives of O.P's status as unauthorized occupant in to the public premises with the prayer for order of eviction, recovery of compensation etc. against O.P. on the ground of termination of authority to occupy the premises as earlier granted to O.P. in respect of the premises in question. So long the property of the Port Authority is coming under the purview of "public premises" as defined under the Act, adjudication process by serving Show Cause Notice/s u/s 4 & 7 of the Act is very much maintainable and there cannot be any question about the maintainability of proceedings before this Forum of Law. In fact, proceedings before this Forum of Law is not statutorily barred unless there is any specific order of stay of such proceedings by any competent court of law. Moreover, the O.P cannot claim any legal right after determination of such long term lease by efflux of time. Therefore, this Issue is thus decided accordingly in favour of KoPT.

As regards the Issue No. II, I must say that non-service of ejection notice as raised by O.P. does not seem to have any merit because as per the Transfer of Property Act, 1882, a lessee is under legal obligation to hand over possession of the property to its landlord/lessor in its original condition after expiration of tenancy under lease. The tenancy of the O.P. automatically stands terminated upon expiry of the lease-hold period and no additional Notice is required in the eye of law on the part of the landlord to ask the O.P. to vacate the premises. In other words, in case of a long term lease having a specific date of expiration, there is no legal compulsion on the

By Order of
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
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SYAMA PRASAD MOOKERJEE PORT
Head Assistant
OFFICE OF THE LD. ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
12-07-2021

2



Estate Officer, Kolkata Port Trust

Appointed by the Central Govt. Under Section 3 of the Public Premises (Ejection of Unauthorised Occupants) Act 1971

Proceedings No. 1206/1666/R, 1666/D of 2018 Order Sheet No. 26

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

M/S Soorajmull ^{VS} Baijnath

28
09.07.2021

landlord to issue any Notice to Quit. The landlord is, however, free to issue such a Notice as a reminder or as an act of gratuity. In the instant case, the landlord i.e. KoPT adopted such a course and claims to have issued a Notice to O.P. dated 08.12.1980 asking for vacation of the premises after expiry of the month of January 1981. Whether such Notice has been received by O.P. or not is quite immaterial inasmuch as O.P. was duty bound to hand over possession after expiry of such lease which it had failed to do. In my view, the importance of a notice served in the official course of business through India Post cannot be ignored by taking mere plea of non service of ejectment notice.

The Issue No, III & VI are taken up together for convenient of discussion as the issues are related with each other on the issue of nonpayment of rental dues, KoPT, states that O.P. has not made any payment since long. Although, the O.P vide their reply dated 25.04.2019 has specifically submitted that they have paid rent regularly and their default on account of rent and taxes is unintentional, but I must say that this statement of O.P does not seem to have any justification in this juncture because such statement do not come to the protection of O.P at all. Moreover, during the course of hearing KoPT has filed a detailed Statement of Accounts as generated on 18.03.2019 in respect of said occupation, which clearly indicates the huge dues on the part of the O.P. In my view, such statement maintained by the statutory authority in the usual course of business has definite evidentiary value, unless challenged by any of the concerned/ interested parties with fortified documents/evidences etc, ready to bear the test of legal scrutiny. During the course of hearing, I am given to

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THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
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SYAMA PRASAD MOOKERJEE PORT
12-07-2021
OFFICE OF THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

2

Estate Officer, Kolkata Port Trust

Appointed by the Central Govt. Under Section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act 1971



Proceedings No. 1666, 1666/R, 1666/D of 2018 Order Sheet No. 27

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

M/s Soorajmull Baijnath ^{VS}

28
09.07.2021

understand by the Port Authority that the rent charged from time to time is based on the rates notified by the Tariff Authority for Major Ports (TAMP) in the Official Gazette, which is binding on all users of the port property. In my view, the breach committed by the O.P. is very much well established in the facts and circumstances of the case and O.P. must have to face the consequences, following due applications of the tenets of law. In my considered view, the Port Authority has a definite legitimate claim to get its revenue involved into the Port Property in question as per the KoPT's Schedule of Rent Charges for the relevant period and O.P. cannot deny such payment of requisite charges as mentioned in the Schedule of Rent Charges. Further, in the said reply to the Show cause and subsequently during the course of hearing O.P. has prayed for reconciliation of interest dues but my considered view is that as the payment of interest is a natural fall out of principal dues, one must have to pay such interest in case of default in making payment of the principal amount due to be payable. For occupation and enjoyment of Port property, the charges leviable upon the tenants/ occupiers are based on the Schedule of Rent Charges as applicable for a tenant/occupier in respect of respective zone as indicated in such Schedule of Rent Charges. Here in this instant matter O.P. cannot deny such liability of payment of interest also as he has failed to pay the principal amount due to be payable by him. More so this forum has no jurisdiction in the matter of reconciliation of interest for which O.P. has to pray before proper Authority of KoPT. As such, I have no hesitation to decide the issue in favour of KoPT and I have no bar to accept the claim of KoPT on account of Interest accrued for delayed payment.

By Order of:
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
TRUST
CERTIFIED COPY OF THE ORDER
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SYAMA PRASAD MOOKERJEE PORT
TRUST

OFFICER
PORT

2



Estate Officer, Kolkata Port Trust

Appointed by the Central Govt. Under Section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act 1971

Proceedings No. 1666/R, 1666/P of 2018 Order Sheet No. 28

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

M/s Soorajmull vs Baijnath

28
09.07.2021

In the aforementioned circumstances, being satisfied as above, I have no hesitation to uphold the claim of the Port Authority.

The issues no. IV and V are taken up together, as the issues are related to each other. The issue of unauthorized construction and unauthorized parting with possession, have been specifically denied by O.P vide their reply to the Show Cause dated 25.04.2019. In Para no.10 of their reply O.P has specifically submitted that "KoPT by its letter bearing No. LM/1182/1/A dated 05.04.1978 gave permission with regard to construction of boundary wall and Darwan Quarter on demand of proper submission of such plans as to the structure and Darwan Quarter, hence it is not a fact that we the plaintiff have erected unauthorized construction and parting possession to rank outsiders." But to prove such allegation of unauthorized construction, KoPT has failed to produced any specific drawing/sketch Maps highlighting the unauthorized construction therefore such allegation of KoPT is baseless in my view. However, as regards the unauthorized parting with possession, KoPT has filed a copy of letter before this Forum addressing the O.P (such as letter dated 02.08.1979) whereby KoPT has requested O.P for removal of their unauthorized subtenants viz M/S M.M Industry and M/S S.F. India Ltd. but inspite of receiving the copy of such letter, O.P apparently did not pay any heed to that matter. This communication amply depicts that O.P has parted with possession to rank outsiders. Mere denial of unauthorized parting on behalf of the O.P is in my view not sufficient to defend this type of serious allegation. The O.P could not produce any document to defend his position. As such it is very difficult to accept the mere claim of the O.P which is bereft of any cogent reason. Moreover, induction of a

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SYAMA PRASAD MOOKERJEE PORT
Head Assistant
OFFICE OF THE LD. ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT



Estate Officer, Kolkata Port Trust

Appointed by the Central Govt. Under Section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act 1971

Proceedings No. 1666, 1666/R, 1666/D of 2018 Order Sheet No. 29

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

M/S Soorajmull Baijnath ^{VS}

28

09.07.2021

third party without the approval of KoPT is also against spirit of tenancy. Therefore, the issue of unauthorized parting with possession is decided in favour of KoPT.

As regards the Issue No.VII, O.P. has categorically submitted in the prayer portion of their reply that schedule of the property has been wrongly mentioned which should be amended but I must say that although it is true that description of the property under Schedule is of paramount importance for initiation of proceedings but in the instant case, I do not find anything to interfere into the matter. Moreover, KoPT vide their rejoinder dated 02.05.2019 has already submitted before the Forum that such wrong in the original application was an inadvertent one and they filed a correct schedule of the property vide that application as well. Now therefore, I do not find any merit to the submissions made by O.P. with regard to "wrong description" of the property under Schedule. Hence, the issue is decided against O.P.

As regards the issue No. VIII, I must say that as the KoPT vide their rejoinder dated 02.05.2019 has strongly denied that the Title Appeal No.243 of 1992 passed by the Ld' 2nd ADJ, Howrah is not at all related to the Subject public premises, I don't disbelieve the contention of such Statutory Authority like KoPT. Therefore O.P's. reference in connection with the above referred matter is wholly irrelevant in my view.

As regards the issue No. IX, I must say that Quit Notice dated 08.12.1980 read with vacation Notice dated 07.06.2017 as issued by KoPT is very much valid, enforceable and in accordance with law. As per Sec 2(g) of the P.P Act, 1971, the "unauthorized occupation" in relation to any public premises, means the occupation by any person of the public premises without authority for

By Order of:
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
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SYAMA PRASAD MOOKERJEE PORT
12.07.2021
Head Assistant
OFFICE OF THE LD. ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT



Estate Officer, Kolkata Port Trust

Appointed by the Central Govt. Under Section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act 1971.

Proceedings No. 1666/D/556/R/1666/D Of 2018 Order Sheet No. 30

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

M/s Soorajmull VS Baijnath

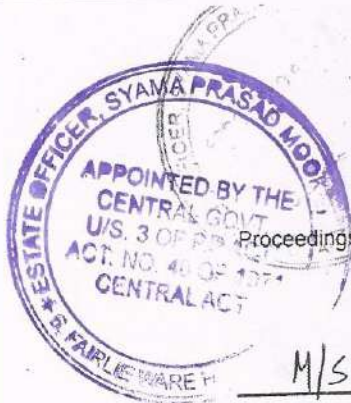
28
09.07.2021

such occupation and includes the continuance in occupation by any person of the public premises after the authority (whether by way of grant or any other mode of transfer) under which he was allowed to occupy the premises has expired or has been determined for any reason whatsoever. In my view said provision is squarely attracted in this matter. Moreover, I find from the Lease Agreement that KoPT is very much within its right to determine the relationship by virtue of this Quit notice. In such a situation when a rank outsider is carrying out commercial activity or dwelling in public premises belonging to the statutory authority that too on the strength of an agreement, this Forum cannot sit silent. In view of the discussions above, the issues are decided firmly in favour of KoPT. I find that this is a fit case for passing order of eviction against O.P and hence, being satisfied as above I hereby, pass Order of eviction under Section 5 of the Act on following grounds :-

1. That this Forum of Law is well within its jurisdiction to adjudicate upon the matters relating to eviction and recovery of arrear dues/damages etc. as prayed for on behalf of KoPT.
2. That the plea taken by O.P. regarding "non-service of ejection notice" for determination of lease has no merit.
3. That O.P. has violated the condition of long term lease as granted by the Port Authority by way of not making payment of rental dues and taxes to KoPT, for a prolonged period of time.
4. That O.P has parted with possession of the public premises without any authority of law, in facts and circumstances of the case.

By Order of:
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
CERTIFIED COPY OF THE ORDER
PASSED BY THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
12/07/2021
Head Assistant
OFFICE OF THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT

2



Estate Officer, Kolkata Port Trust

Appointed by the Central Govt. Under Section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act 1971

Proceedings No. 1666, 1666/R, 1666/D of 2018 Order Sheet No. 31

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

M/s Soorajmull Baijnath ^{VS}

28

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5. The O.P or any other person/occupant has failed to bear any witness or adduce any evidence in support of its occupation as "authorised occupation".
6. That the notice to quit dated 08.12.1980 as served upon O.P. by the Port Authority is valid, lawful and binding upon the parties and O.P.'s occupation and that of any other occupant of the premises has become unauthorised in view of Sec.2 (g) of the P.P. Act.
7. That O.P. is liable to pay damages for wrongful use and occupation of the public premises up to the date of handing over the clear, vacant and unencumbered possession to the port authority.

ACCORDINGLY, I sign the formal order of eviction u/s 5 of the Act as per Rule made there under, giving 15 days time to O.P. and any person/s whoever may be in occupation to vacate the premises. I make it clear that all person/s whoever may be in occupation are liable to be evicted by this order and the Port Authority is entitled to claim damages for unauthorized use and enjoyment of the property against O.P. in accordance with Law up to the date of recovery of possession of the same. KoPT is directed to submit a comprehensive status report of the Public Premises in question on inspection of the property after expiry of the 15 days as aforesaid so that necessary action could be taken for execution of the order of eviction u/s. 5 of the Act as per Rule made under the Act.

Regarding payment of rental dues to KoPT, I must say that Rs. 2,23,826.40 as claimed by the Port Authority in relation to the Plate in question, is correctly payable by O.P. for the period 01.02.1978 to 31.01.1981 (both days inclusive) and it is hereby ordered that O.P. shall make payment of the

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AUTHORITY
KOLKATA
12.07.2021
Head Assistant
OFFICE OF THE LD. ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT



Estate Officer, Kolkata Port Trust

Appointed by the Central Govt. Under Section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act 1971

Proceedings No. 1666/R, 1666/D of 2018 Order Sheet No. 32

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

M/s Soorajmull VS Baijnath

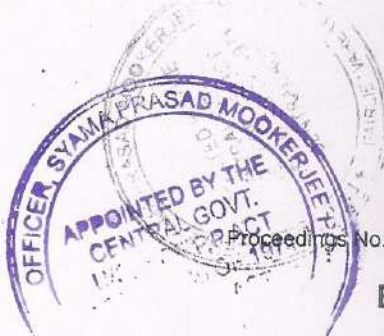
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09-07-2021

aforesaid sum to KoPT by..... The said rental dues shall attract compound interest @ 6.20 % per annum, which is the current rate of interest as per the Interest Act, 1978 (as gathered by me from the official website of the State Bank of India) from the date of incurrence of liability, till the liquidation of the same, as per the adjustment of payments, if any made so far by O.P., in terms of KoPT's books of accounts.

During the course of hearing, I find that KoPT has made out an arguable claim against O.P., founded with sound reasoning, regarding the damage/ compensation to be paid for unauthorised occupation and in this regard a sum of Rs.4,10,04,845.10 for the period 01.02.1981 to 18.03.2019 (both days inclusive) is due and recoverable from O.P. by the Port authority and O.P. must have to pay such dues to KoPT on or before 26-07-2021. The said damages shall attract compound interest @ 6.20 % per annum, which is the current rate of interest as per the Interest Act, 1978 (as gathered by me from the official website of the State Bank of India) from the date of incurrence of liability, till the liquidation of the same, as per the adjustment of payments, if any made so far by O.P., in terms of KoPT's books of accounts. I sign the formal orders u/s 7 of the Act.

I make it clear that KoPT is entitled to claim further damages against O.P. for unauthorized use and occupation of the public premises right upto the date of recovery of clear, vacant and unencumbered possession of the same in accordance with Law, and as such the liability of O.P. to pay damages extends beyond 18.03.2019 as well, till such time the possession of the premises continues to be under the unauthorised occupation with the O.P. KoPT is directed to submit a statement comprising details of its calculation of damages after 18.03.2019, indicating there-in, the details of

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SYAMA PRASAD MOOKERJEE PORT
Head Assistant
OFFICE OF THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT



Estate Officer, Kolkata Port Trust

Appointed by the Central Govt. Under Section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act 1971

Proceedings No. 1666/1666/R, 1666/D Of 2018 Order Sheet No. -33-

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

M/S Soorajmull Baijnath ^{VS}

28
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the rate of such charges, and the period of the damages (i.e. till the date of taking over of possession) together with the basis on which such charges are claimed against O.P., for my consideration for the purpose of assessment of such damages as per Rule made under the Act.

I make it clear that in the event of failure on the part of O.P. to comply with this Order, Port Authority is entitled to proceed further for execution of this order in accordance with law. All concerned are directed to act accordingly.

GIVEN UNDER MY HAND AND SEAL

(Satyabrata Sinha)
ESTATE OFFICER

*** ALL EXHIBITS AND DOCUMENTS
ARE REQUIRED TO BE TAKEN BACK
WITHIN ONE MONTH FROM THE DATE
OF PASSING OF THIS ORDER ***

By Order of:
THE ESTATE OFFICER
SYAMA PRASAD MOOKERJEE PORT
TRUST
KOLKATA
12.07.2021
OFFICER
SYAMA PRASAD MOOKERJEE PORT